



SIDLEY AUSTIN LLP
787 SEVENTH AVENUE
NEW YORK, NY 10019
(212) 839 5300
(212) 839 5599 FAX

ejoyce@sidley.com
(212) 839 8555

BEIJING	HONG KONG	SHANGHAI
BOSTON	HOUSTON	SINGAPORE
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FOUNDED 1866

September 21, 2015

Submitted Via ECF

The Honorable Jack B. Weinstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Kurtz v. Kimberly-Clark Corp., et al.*, 14-cv-1142
September 18, 2015 Order [D.E. 175]

Dear Judge Weinstein:

On behalf of Kimberly-Clark Corporation (“Kimberly-Clark”), I write in response to the Court’s September 18, 2015 Order requesting information regarding litigation involving flushable wipes. [D.E. 175].

Kimberly-Clark and its counsel are unaware of any additional cases in the Eastern District of New York involving flushable wipes, beyond those identified in the Court’s Order.

Listed below are additional cases in other courts involving flushable wipes, to which Kimberly-Clark is a party, along with the status of those cases. In each of the below cases, Kimberly-Clark is represented by Sidley Austin LLP, its counsel in this litigation.

- ***Davidson v. Kimberly-Clark Corp., et al.*, Case No. C 14-1783 (N.D. Cal.):** On December 19, 2014, plaintiff’s amended complaint was dismissed with prejudice, because plaintiff lacked Article III standing to seek prospective injunctive relief, and because she failed to allege “facts showing that the representation ‘flushable’ is false or misleading as to the Scott Naturals® product or as to any of the other three Kimberly-Clark products at issue.” Order Granting Motion to Dismiss [D.E. 44] at 6, 14. On May 15, 2015, the court denied Plaintiff’s motion for reconsideration [D.E. 54], and on June 11, 2015, Plaintiff noticed her appeal to the Ninth Circuit. [D.E. 55]; *see also Davidson v. Kimberly-Clark Corp., et al.*, Case No. 15-16173 (9th Cir.).
- ***Sweeney, et al. v. Kimberly-Clark, Corp., et al.*, Case No. 8:14-cv-03201 (M.D. Fla.):** On September 15, 2015, plaintiffs’ complaint was dismissed without prejudice, because,



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inter alia, “[w]ithout identifying the specific product responsible for Plaintiffs’ damages, Plaintiffs cannot satisfy the causal connection prong” of Article III standing. Order [D.E. 69] at 6. Plaintiffs may file an amended complaint by October 9, 2015. *Id.* at 14.

- ***City of Wyoming, et al. v. Procter & Gamble Co., et al.*, Case No. 0:15-cv-02101 (D. Minn.)**: After defendants filed a motion to dismiss a putative class action complaint brought by municipalities and public utilities in Minnesota, plaintiffs filed an amended complaint (adding a Wisconsin municipality) on August 10, 2015. The amended complaint brings a variety of state law claims and seeks certification of (i) a nationwide class of owners, managers and operators of wastewater treatment systems pursuant to Rule 23(b)(2), (ii) a subclass of wastewater treatment system owners, managers and operators in Colorado, Hawaii, Iowa, Minnesota, North Dakota, Utah, Wyoming, Maine, Massachusetts, New Hampshire, Rhode Island, or Virginia pursuant to Rules 23(b)(2) and (b)(3), (iii) a subclass of wastewater treatment system owners, managers and operators in Minnesota pursuant to Rule 23(b)(3), and (iv) a subclass of wastewater treatment system owners, managers and operators in Wisconsin pursuant to Rule 23(b)(3). Defendants are to file their motion to dismiss plaintiffs’ amended complaint by September 24, 2015. Order [D.E. 65].
- ***Jonah v. Kimberly-Clark Corp., et al.*, Case No. 15-cv-3243 (N.D. Cal.)**: On September 17, 2015, this case was stayed, pending the Ninth Circuit’s disposition of the *Davidson* case. [D.E. 30].

Respectfully submitted,

/s/ Eamon P. Joyce

Eamon P. Joyce